

Appl. No. 10/720,557  
Docket No. 9130M  
Amdt. dated December 19, 2007  
Reply to Office Action mailed on September 19, 2007  
Customer No. 27752

## REMARKS

### Claim Status

Claims 18-20 have been canceled without prejudice.

New Claims 21-23 have been added based on, *inter alia*, Figures 1-2 and 5-6.

New Claim 24-26 have been added based on the disclosure at page 4, lines 28-29; page 6, lines 13-17; and page 9, line 28 to page 10, line 10.

New Claims 27-28 has been added based on original Claim 5.

New Claim 29 has been added based on original Claim 7.

Claims 1-17 and 21-29 are now pending in the present application.

Claim 5 has been amended for clarity, based on the Figures of the present application.

Claim 13 has been amended for clarity.

Claim 15 has been amended to replace the comma at the end of the claim with a period.

### Rejection Under 35 U.S.C. §102 Over Osborn, III et al.

Claims 1-5, 9, 14, and 17 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Osborn, III et al. (US 5,824,004). Applicants respectfully traverse this rejection.

Applicants submit that Osborn, III et al. do not teach or suggest a facing layer as presently claimed. The facing layer of the presently claimed invention is joined to the backsheet of the sanitary napkin. The Office Action alleges that Element 216 of Osborn, III et al. is part of a facing layer of Osborn, III et al. Applicants respectfully disagree and point out that Element 216 of Osborn, III et al. is disposed between the facing layer (Element 38) and absorbent core (Element 42) of the sanitary napkin, and is not joined to the backsheet. *See, e.g.*, FIGS. 68, 69, 76, 79, and 80. As such, Element 216 does not

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constitute part of the facing layer of Osborn, III et al. Applicants therefore submit that Osborn, III et al. do not disclose a facing layer as presently claimed.

Additionally, the Office Action points to FIG. 74 as describing a facing layer as presently claimed. Applicants respectfully disagree and point out that the sanitary napkin shown in FIG. 74 has no out-of-plane deformations when the sanitary napkin is in its unextended condition. *See* the top line of FIG. 74 and col. 66, lines 40-43. The bottom illustration in FIG. 74, which is a schematic side view, simply highlights the center two inch region that will stretch upon application of force in the direction F, and provides no disclosure of a facing layer having out-of-plane deformations. In spite of this, the Office Action asserts that

The embodiment of FIG. 74 has a central second region 32 wherein a nonextensible element 216 is placed on top of the core 42, i.e. between the core 42 and topsheet 38. The element fits snugly against the topsheet 38 and is comprised of longitudinally extending ribs. Thus the apertured topsheet 38 also comprises a second region comprising a plurality of out-of-plane deformations defined by the ribs of element 216.

*See* page 4, lines 4-9 of the Office Action dated September 19, 2007. Applicants cannot find support for these assertions based on FIG. 74 and the description associated therewith. Indeed, FIG. 74 does not even reference a nonextensible element 216, a core 42, or a topsheet 38. Applicants therefore submit that FIG. 74, and its accompanying description, shows and describes nothing about whether the facing layer of Osborn, III et al. has a plurality of out-of-plane deformations as presently claimed.

In addition to the subject matter claimed in independent Claim 1, Applicants would like to draw attention to several other claims that include additional elements which serve to further distinguish the present invention from Osborn, III et al.

Claim 5 and newly added Claim 27 recite that the first region is disposed centrally to the sanitary napkin along the longitudinal axis and the second region is disposed adjacent at least one of the longitudinally-oriented side edges and adjacent the first region of the sanitary napkin. Osborn, III et al. clearly do not disclose or suggest such a structure. In this embodiment, as recited in Claims 5 and 27, the plurality of out-of-plane deformations serve to inhibit the flow of bodily fluid toward the longitudinal sides of the

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sanitary napkin, thereby helping to prevent undesired leakage of the bodily fluid. The plurality of out-of-plane projections can also serve to "wipe" the skin of the user to help remove bodily fluid disposed on the user's skin. The plurality of apertures in the centrally disposed first region allow the bodily fluid to more readily penetrate into the absorbent core of the sanitary napkin. Non-limiting examples of this embodiment are illustrated in the Figures of the present application, wherein the first region is centrally located along the longitudinal axis of the sanitary napkin, and the second region is disposed along each side of the first region, adjacent the side edges of the sanitary napkin. *See* FIGS. 1-6. These benefits are described throughout the specification of the present application.

Furthermore, newly added Claim 28 recites that the plurality of out-of-plane deformations are disposed along at least one of the longitudinally-oriented side edges of the sanitary napkin, which, as discussed above, is clearly not disclosed or suggested by Osborn, III et al.

Each of Claims 6-17 and 27-29 recite a sanitary napkin that comprises a deep-embossed channel. Non-limiting examples of deep-embossed channels (reference numeral 5) are illustrated in FIGS. 4-6 of the present application. The deep-embossed channels can help contain fluid flow and add to the aesthetic appearance of the sanitary napkin. *See, e.g.*, page 8, lines 25-27. Such deep-embossed channels are not taught or suggested by Osborn, III et al. The Office Action asserts that such deep-embossed channels are disclosed in FIG. 74 of Osborn, III et al. Applicants respectfully disagree and again point out that the bottom illustration of FIG. 74 is merely a schematic side view of a sanitary napkin having a center two inch region that will stretch upon application of force in the direction F. As such, FIG. 74 and its associated written description disclose nothing about a sanitary napkin comprising a deep-embossed channel.

Newly added Claim 21 specifies that the second region consists essentially of the plurality of out-of-plane projections (i.e. the second region has no apertures). Newly added Claim 22 specifies that the first region consists essentially of the plurality of apertures (i.e. the first region has no out-of-plane deformations). Newly added Claim 23 requires that the second region consists essentially of the plurality of out-of-plane projections (i.e. the second region has no apertures) and the first region consists essentially of the plurality of apertures (i.e. the first region has no out-of-plane

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deformations). Osborn, III et al. clearly do not disclose or suggest such structures as claimed in Claims 21-23.

Newly added Claims 24 specifies that the facing layer comprises an apertured fibrous nonwoven web. Newly added Claim 25 recites that both the topsheet and secondary topsheet are fibrous nonwoven webs. Such structural features are not taught or suggested by Osborn, III et al. At most, Osborn, III et al. disclose an apertured film topsheet and secondary fibrous nonwoven web. *See, e.g.*, FIGS 12 and 13 of Osborn, III et al. Osborn, III et al. do not disclose or suggest an apertured fibrous nonwoven web as a facing layer and further do not disclose or suggest a topsheet and secondary topsheet that are both fibrous nonwoven webs.

In view of the discussion above, Applicants respectfully submit that Claims 1-17 and 21-29 are clearly not anticipated and are patentable under 35 U.S.C. § 102(b) over Osborn, III et al.

#### Rejection Under 35 U.S.C. §103(a) Over Osborn, III et al.

Claims 6-8, 10-13, 15 and 16 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Osborn, III et al. Applicants respectfully traverse this rejection.

As discussed *supra*, the bottom illustration in FIG. 74 is simply a schematic side view of an embodiment of a sanitary napkin of Osborn, III et al. highlighting a center two inch region that will stretch upon application of force in the direction F. FIG. 74 does not even reference "the ribs of element 216" or topsheet 38 as asserted in the Office Action. FIG. 74 further does not reference "channels" or apertures as asserted in the Office Action.

As discussed herein, Applicants submit that Osborn, III et al. fail to disclose or suggest the presently claimed invention. Applicants therefore submit that Claims 1-17 and 21-29 are unobvious and patentable under 35 U.S.C. § 103(a) over Osborn, III et al.

#### Conclusion

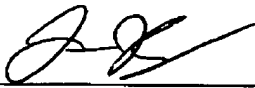
This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied reference. In

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view of the foregoing, entry of the amendments presented herein, reconsideration of this application, and allowance of the pending claims are respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By  \_\_\_\_\_

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Customer No. 27752

Jason J. Camp  
Registration No. 44,582  
(513) 634-2673